

May 18, 1951

Mr. Ferdinand Erickson
Attorney at Law
Richfield, Utah

Dear Mr. Erickson:

RE: TWELVE MILE CREEK

Certain water users on Twelve Mile Creek have drawn to my attention that a Mr. Ferd Rosenlund and others are, and have been diverting water from Twelve Mile Creek. The Cox Decree, signed in 1936, purportedly distributed all of the waters of Twelve Mile Creek to Gunnison Irrigation Company and the Mayfield Irrigation Company. The law provides a duty upon the State Engineer to distribute the waters of the various streams of the State, pursuant to the ownership of the right to use them held by the various people. The only records in the Office of the State Engineer apparently show the right to the entire use of the waters to be in the two above named companies.

It is our understanding that your client claims the right to this water separate and distinct from the Cox Decree. It does not lie in the province of the State Engineer to determine what right your client may have, if any, but he is bound by the terms of the Decree. Orders have been given to Mr. Cole, Water Commissioner, to see that these waters are distributed 58% to the Gunnison Irrigation Company and 42% to the Mayfield Irrigation Company. If this distribution is unsatisfactory to your client, it will be incumbent upon him to take legal steps to prove his right to the use of any of the waters.

If he is dissatisfied, we would suggest to you that you file an action in the District Court of Sanpete County enjoining the State Engineer and the Gunnison Irrigation Company and the Mayfield Irrigation Company from interfering in any manner with his use of his claimed right. This action will ultimately result in a law suit between your client and others similarly situated, and the Gunnison and Mayfield Irrigation Companies to determine who owns what, and how much.

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In such case, the State Engineer might not necessarily have to participate in the law suit except to the extent of introducing the Cox Decree and showing the basis upon which he ordered the waters distributed.

We also understand that Lewis Larson of Manti represents certain other people in the same position as your client. It might be advisable for you to contact Mr. Larson and the two of you jointly file such an action. We are forwarding a similar letter to Mr. Larson.

Very truly yours,

J. Lambert Gibson
DEPUTY ATTORNEY GENERAL

JLG/th